

IN THE HIGH COURT OF ORISSA AT CUTTACK

BLAPL No. 9500 of 2021

Akash Meher

....

Petitioner

Mr.J.Sahoo, Advocate

-Versus-

State of Odisha

Opposite Party

Mr.G.C.Rout, ASC

CORAM:
JUSTICE R.K.PATTANAIK

Order No.

ORDER
12.01.2022

1. This matter is taken up through video conferencing mode.
2. Heard learned counsel for the petitioner and learned Additional Standing Counsel for the State.
3. ★ This is an application under Section 439 Cr.P.C. for grant of bail to the petitioner in connection with Phulbani Town P.S. Case No. 94 of 2021 corresponding to C.T. Case No. 45 of 2021 registered under Section(s) 363//366/376-A/376-B/376(2)(n) of IPC and Section 6 of the POCSO Act pending in the court of learned Additional Sessions Judge-cum-Special Judge under POCSO Act, Phulbani on the grounds stated therein.
4. Perused the impugned order dated 08.09.2021 as at Annexure-2.
5. Learned counsel for the petitioner submits that as far as the statement of the victim is concerned, a copy of which is at Annexure-1, it is made to suggest that she was not sexually abused by the accused persons and the medical examination

report rules out any recent sign and symptom of sexual intercourse and considering the fact that the charge sheet has already been filed, the petitioner, who is in custody since 26.06.2021, should be enlarged on bail with any conditions which is objected to by the learned counsel for the State that on the ground that the victim is aged about 12 years, who was in the company of the accused persons a whole night and was administered something, as a result of which, she had lost her sense and subsequently, after having regained her senses, she could feel pain and thereafter, she was dropped at a place and in so far as the medical examination report is concerned, sexual abuse has not been absolutely ruled out.

6. The occurrence is described by the victim in her statement recorded under Section 161 Cr.P.C. and the same is perused. It is not revealed from her statement that the victim was sexually abused. However, learned counsel for the State submits that the victim lost her sense and felt pain in her body on regaining it. It is not clearly revealed from the statement of the victim and also medical examination report, if at all, she was sexually abused by the accused persons. Of course, the allegation of rape and materials there on are to be exhaustively examined during trial. As far as the medical examination report is concerned, there is no symptom of any recent sexual intercourse but possibility of the same has not been excluded.

7. Considering the medical examination report of the victim who is aged about 12 years, the M.O. could not reach at a definite conclusion as to if she was sexually abused. Considering the above facts and the fact that charge sheet has been filed in connection with the case and taking into account the detention of the petitioner since the date of arrest, the

Court is of the considered view that he should allow to go on bail with conditions and accordingly, it is ordered.

8. In the result, it is directed that the petitioner be released on bail on furnishing a bail bond of Rs.40,000/- (rupees forty thousand) with one solvent surety for the like amount to the satisfaction of the learned court below in seisin over the matter with conditions that he shall not cause any harm to the minor victim; and shall not influence any of the materials witnesses, while on bail; and shall attend the P.S. and report the IIC concerned once in a month for a period of next six months without fail for the purpose of investigation.

9. In the event, any of the above conditions is/are flouted by the petitioner, it shall forthwith entail cancellation of his bail.

10. The BLAPL is accordingly disposed of in the above terms.

11. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No. 4798, dated 15th April, 2021, and Court's Office Order circulated vide Memo Nos. 5143 and 515 dated 7th January, 2022.

(R.K.Pattanaik)
Judge

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